

**REMARKS**

This paper responds to the Final Office Action dated December 7, 2010.

In the Office Action, the Examiner has rejected all pending claims under 35 USC 103(a) as follows: claims 7-11, 13-16 and 25 stand rejected as obvious over US 2003/0064758 ("Mizuta") in view of US 2002/0006815 ("Finke-Anlauff") in view of US 2002/0061770 ("Ozaki") in view of USP 4,845,772 ("Metroka"); claims 1-6 and 17-24 stand rejected as obvious over Mizuta in view of Finke-Anlauff in view of USP 6839101 ("Shima") in view of Ozaki in view of Metroka; and claim 12 stands rejected as obvious over Mizuta in view of Finke-Anlauff in view of Ozaki in view of Metroka as applied to claim 7 and further in view of Shima. Our client agrees to your comments.

In the current Office Action, the Examiner acknowledges that the amendment filed with the RCE overcame the then pending rejections. In response, the Examiner relies on newly cited Metroka as disclosing what the Examiner acknowledges is lacking in Mizuta, Finke-Anlauff and Ozaki, namely "the auxiliary operation section being inoperative in the transition state between opened and closed." See Office Action at 5. The Examiner asserts "Metroka defines the open state as a set point (45 degrees) in the transition from fully opened to fully closed." The Examiner further asserts "The teachings of Metroka define the state of the device when it is between a fully opened and fully closed state thereby removing ambiguity during this transition."

However, the cited prior art, including newly cited Metroka, still fail to disclose the limitation "*wherein, in the opened state and in a transition state between the opened state and the closed said auxiliary operation section is inoperative...*", as recited in claim 1. A similar limitation is found in the remaining independent claims.

In Metroka, a cell phone is disclosed having a structure that makes the keypad (110) inoperative when the flip element (104) is fully closed and when the an angle between the body (102) and the flip element reaches 45 degree (See column 3, lines 1-32). On the other hand, in the claimed invention, in the opened state and in a transition state between the opened state and the closed state, the auxiliary operation section is inoperative.

The main purpose of Metroka is to prevent unwanted operation of dial and control button mechanisms by foreign objects which may be trapped between the mechanisms and a cover. (See column 1, lines 60 to 63). That is, the keypad (110) are required to be located in a portion between the body (102) and the flip (104), and the keypad (110) should be inoperative (“on-hook”) both when the flip (104) is fully closed and when the an angle between the body (102) and the flip (104) reaches 45 degree. In the off-hook state, the keypad 110 is active. In other words, the on-hook state is activated before the portable telephone is fully closed.

In the claimed invention, unlike the keypad (110) in Metroka, the auxiliary operation section is located on a side of the portable terminal unit and is exposed (not covered) both when the portable terminal is in the opened state and when the portable terminal is in the closed state. Thus, the keypad (110) in Metroka is dissimilar to the auxiliary operation section of the claims. However, the Examiner disregards the stated purpose of the operation of the cell phone in Metroka, and using hindsight relies on Metroka in an attempt to construct the claimed device and render the claims obvious.

That is, citing partially that keypad (110) becomes inoperative when an angle between the body (102) and the flip (104) reaches 45 degree while ignoring the feature that keypad (110) is inoperative when the flip (104) is fully closed is unreasonable because both features are necessary for the purpose of Metroka. And the purpose of Metroka is different from

the purpose of the claimed invention. Thus, Metroka alone or in combination with the other cited prior art, fails to teach or suggest the claimed device wherein both in the opened state and transition state between opened and closed the auxiliary operation section is inoperative.

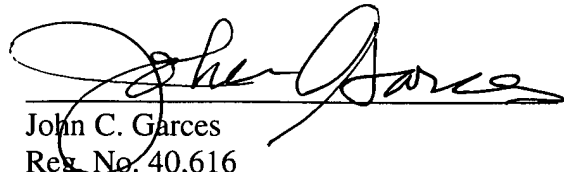
Also, the Office Action incorrectly asserts that Mizuta discloses a “detection section for detecting movement of said coupling section to determine whether said portable unit is in the opened state or in the closed state.” As Applicant explained in the prior Amendment, “in Mizuta, Hall sensors that are located on the upper and lower housings are used to determine whether the device is opened or closed. Thus, neither Mizuta nor Finke-Anlauff disclose detecting the rotation of the coupling section in order to determine if the device is opened or closed, and hence the claims are allowable over the cited prior art.”

For the reasons set forth above, Applicant respectfully submits that this patent application, including pending claims 1-25, is in condition for allowance. Reconsideration and prompt allowance of this application are respectfully requested. The Examiner is urged to telephone Applicant's undersigned counsel at the number noted below if it will advance the prosecution of this application, or with any suggestion to resolve any condition that would impede allowance. In the event that any extension of time is required, Applicant petitions for that extension of time required to make this response timely.

Kindly charge any additional fee, including extension fees, or credit any surplus,  
to Deposit Account No. 50-0675, Order No. 848075-0059.

Respectfully submitted,

Date: March 7, 2011

A handwritten signature in black ink, appearing to read "John C. Garces", written over a horizontal line.

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